

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, November 9, 2004
Tuesday, 9:08 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Patsy Ellis, Deputy, City Clerk; present.

Rev. Elisha Verge, North Ash Church of the Nazarene, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the November 2, 2004, Meeting were approved 7 to 0.

AWARDS AND PROCLAMATIONS:

PROCLAMATIONS Proclamations previously approved were presented.

SERVICE CITATION Distinguished Service Citations were presented.

PUBLIC AGENDA

OLETHA FAUST-GOUDEU Representative Oletha Faust-Goudeau - Piatt Park Memorial, Remembering the Victims.

Representative Oletha Faust-Goudeau, of the 84th District, spoke concerning the tragic KC-135 tanker plane crash that happened on January 16, 1965, in the 20th Block of North Piatt. She states: that she would like for Council to consider two suggestions or recommendations for the continued efforts which will hopefully and finally result in the construction of a permanent and lasting memorial/monument, which will officially and publicly recognize the 23 victims and 7 aircraft members that perished almost 40 years ago. (Note: Petitions were presented in support of the monument).

First recommendation for consideration is to officially change the name of Piatt Park to Piatt Memorial Park.

Secondly, she would like to have the Council designate in the form of a proclamation that on the upcoming weekend of January 16 to be annually recognized as the day when the 23 Wichita citizens perished in the worse single incident for highest total loss of life in one day at the same place.

Also, that City Officials participate in the groundbreaking dedication this coming January on the upcoming 40th anniversary to finally dedicate the process which will eventually result in the completion of a permanent memorial to those that perished that day.

Council Member Brewer Council Member Brewer stated he would get together soon with Representative Faust-Goudeau to what could be done.

EDWARD ADKINS Edward Adkins - 911 Call System and Police Response to Traffic Accidents.

Mr. Adkins spoke on 911 Call System and police response to traffic accidents. He said there is a drug problem in his neighborhood and that he has been trying to work with the police for a year, but the drug

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house continues to operate. He feels that the quality of life is not good, as someone entered his home in the middle of the night and neighbors have unknown vehicles in their driveways. He states his personal safety is in jeopardy and feels police are treating him in a menacing manner. Stated that he was involved in a traffic accident and it took officers about three hours to respond and the accident happened in the City Limits.

Also, Mr. Adkins reported that he was visiting with someone in the City Building and was asked to leave by an officer. When he asked why, he was told he was being asked to disperse, or he would be arrested. Also that he had not been able to see Deputy Chief Stolz.

Mayor Mayans

Mayor Mayans asked when this had happened and Mr. Adkins told him that it happened the 25th of last month. Mayor Mayans asked the City Manager to look into this and to get with Deputy Chief Stolz.

CONSENT AGENDA

Motion -- carried

Mayans moved that the Consent Agenda be considered as consensus Items. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED NOVEMBER 8, 2004.

Bids were opened November 5, 2004, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

2004 Sanitary Sewer Rehabilitation, Phase G - various locations between Tyler & Webb, and between 29th Street North & Pawnee. (468-83924/620419/664539) Traffic to be maintained during construction using flagpersons and barricades. (Districts I,II,III,V)

Insituform Technologies - \$183,708.00

Water line to serve Murdock from Arapaho to east of Boyd to serve West Central Gardens, West Central Gardens 3rd, and Avery Additions - north of Central, east of Hoover. (448-89946/735201/470871) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Padgett Excavation - \$13,130.56

Water Distribution System to serve Southern Ridge Second Addition - south of Pawnee, west of Maize. (448-90008/735219/470889) Does not affect existing traffic. (District IV)

Wilks Underground - \$41,330.00

Lateral 16 Northwest Interceptor Sewer to serve Liberty Park Third Addition - south of 13th Street North, east of 135th Street West. (468-83854/744075/480763) Does not affect existing traffic. (District V)

McCullough Excavation - \$35,350.00

Lateral 6, Main 5 Northwest Interceptor Sewer to serve Copper Gate Estates Addition - south of 13th Street North, west of 135th Street West. (468-83534 /744082/480770) Does not affect existing traffic. (District V)

Duling Construction - \$157,407.00

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Lateral 38, Cowskin Interceptor Sewer to serve Highland Springs Third Addition - south of Central, west of 135th Street West. (468-83635/744078/480766) Does not affect existing traffic. (District V)

Duling Construction - \$105,376.00

Lateral 13, Main 14 Southwest Interceptor Sewer to serve Burnham and Von Feldt Industrial Additions - south of Harry, west of West Street. (468-83772/744041/480729) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Dondlinger & Sons – \$82,624.00

Rock Road from 21st Street North to 29th Street North, Phase 2: Landscaping (472-83889/706874/240340) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Seeders, Inc. – \$45,780.00

Main 17 Four Mile Creek Sewer, Phase 1 to serve Crestview Country Club - east of 127th Street East, south of 13th Street North. (468-83903/624078/652532) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Wildcat Construction - \$2,221,313.00

Motion--

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Restroom Improvements at Evergreen Recreation Center.

Descon Inc. - \$20,112.00 (Group 1 total base bid)
\$19,650.00 (Group 1/option 1)
\$ 1,429.00 (Group 1/option 2)
\$ 1,027.00 (Group 1/option 3)

AIRPORT DEPARTMENT/ENGINEERING DIVISION: Replace Carpet Three (3) Airline Gates/Offices.

Sherwin Williams Co. - \$33,411.43 (Group 1 total net bid)

FIRE DEPARTMENT/FIRE SAFETY DIVISION: Fire Hose, Redhead Hose Couplings, Expan.

Emergency Fire Equipment Co. - \$39,250.02 (Group 1 total net bid)
\$13,709.08 (Group 2 total net bid)
Casco Industries, Inc. - \$ 3,438.29 (Group 3 total net bid)
F & F Supply Co. - \$1,565.28 (Group 4 total net bid)

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Parapet Wall Waterproofing.

Restoration & Waterproofing Contractors - \$17,150.00 (Group1 total net bid)

POLICE DEPARTMENT/SUPPORT SERVICES DIVISION: Tactical Team Armor.

Baysinger Police Supply - \$39,254.00 (Group 1 total net bid)

PUBLIC WORKS DEPARTMENT/STREET MAINTENANCE DIVISION: Corrugated Metal Culverts.

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Contech Construction Products Inc. - \$7,960.80 (Group 1 total net bid)

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Ferrous Chloride.

OFS Inc. - \$0.2943* (per pound)

*Fuel surcharge increase

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: Worm Drive and Drive Control.

JCI Industries Inc*. - \$21,380.65 (One Eimco Word Drive Assembly/Drawing #22135D17 Fully Assemble, Including main Pinion and Worm Shaft)
\$ 1,746.41 (One Drive Control #L115759-1, 4SPDT,RH, W/O Pot (435)

*Purchasing Ordinance No. 35-856 Section 2. (b) – Sole Source of Supply.
Includes freight and sales tax

Motion--
--carried

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

LICENSES

APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS /SERVICES:

New Escort Service

Jessica Espinoza	Millennium Entertainment	2415 South Glendale
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Renewal Escort Service

Marvin Gehrke	MT Management	304 South Laura
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Renewal Adult Entertainment

Norman Massey Jr.	Circle Cinema	2570 South Seneca
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Motion--
--carried

Mayans moved that the licenses, subject to Staff review and approval, be approved. Motion carried 7 to 0.

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2004</u>	<u>(Consumption off Premises)</u>
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Saruib Irfan	DAO Variety Store	1601 East Central
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<u>New Establishment</u>	<u>2004</u>	<u>(Consumption on Premises)</u>
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Wayne Larson	Sierra Hills Golf Cub	13420 East Pawnee
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Motion--
--carried

Mayans moved that the licenses, subject to Staff review and approval, be approved. Motion carried 7 to 0.

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

a) Storm Water Sewer #586 to serve Power CDC Second Addition - north of 35th Street North, west of Grove. (468-83573/751329/485220) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$84,180

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b) Lateral 6, Main 13 Four Mile Creek Sewer to serve Hawthorne 3rd Addition - north of 21st Street North, east of 127th Street East. (468-83871/744090/480778) Does not affect existing traffic. (District II) - \$241,000

c) Williamsgate/Camden Chase from the east line of Peckham to the north line of 21st Street North to serve Hawthorne, Hawthorne Second and Third Additions - north of 21st Street North, east of 127th Street East. (472-83644/765774/490885) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$1,500,000

Motion--carried Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

DEEDS/EASEMENTS DEEDS AND EASEMENTS:

a) Utility Easement dated October 12, 2004 from Maize Road, L.L.C. for a tract of land located in Lot 1, Block D, Southern n Ridge 2nd Addition, Wichita, Sedgwick County, Kansas (OCA #607861). No Cost to City.

b) Sanitary Sewer Easement dated September 23, 2004 from Schrader Brothers Construction, Inc. for a tract of land located on Lot 3, Block 20, Oak Cliff Estates Addition, Wichita, Sedgwick County, Kansas (OCA #744065). No Cost to City.

c) Sanitary Sewer Easement dated October 15, 2004 from Edward J. and Bettina C. Clupny for a tract of land located in Lot 8, Block B, Whistling Walk Estates, Wichita, Sedgwick County, Kansas (OCA# 607861). No Cost to City.

Motion--carried Mayans moved that the Deeds and Easements be accepted. Motion carried 7 to 0.

SOUTHERN RIDGE PETITIONS FOR STREET PAVING, SANITARY SEWER AND WATER DISTRIBUTION SYSTEM TO SERVE SOUTHERN RIDGE ADDITION, WEST OF MAIZE, SOUTH OF PAWNEE. (DISTRICT IV)

Agenda Report No. 04-1095

On February 4, 2003, and March 2, 2004, the City Council approved Petitions for street paving, sanitary sewer and water distribution system in Southern Ridge Addition. Since that time, the developer has divided a number of lots to reflect current home marketing conditions. The developer has submitted new Petitions to reallocate special assessments to accommodate the change in building site boundaries. The signature on the petitions represent 100% of the improvement districts.

The projects will serve a new residential development located west of Maize, south of Pawnee.

The project budgets are unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petitions be approved and the Resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-609

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89766 (south of Pawnee, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 04-610

Resolution of findings of advisability and Resolution authorizing improving of Lateral 33, Cowskin Interceptor Sewer (south of Pawnee, west of Maize) 468-83549, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-611

Resolution of findings of advisability and Resolution authorizing improving Maize Court from the west line of Maize Road, to and including Hammerhead cul-de-sac, to serve Lots 1 through 12, Block C (west of Maize, south of Pawnee) 472-83956, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

TRAFFIC SIGNALS

INSTALL TRAFFIC SIGNALS ON GREENWICH, APPROXIMATELY 850 FEET NORTH OF 21ST STREET. (DISTRICT II)

Agenda Report No. 04-1096

On August 31, 2004, the City Council approved a Petition to install traffic signals on Greenwich, approximately 850 feet north of 21st. A new Petition has been submitted to include additional tracts that benefit from the project. In addition, the project budget has been increased to reflect recent bid prices. The signatures on the new Petition represent 100% of the improvement district.

The project will serve new commercial developments located along Greenwich, north of 21st.

The existing Petition totals \$110,000. The new Petition totals \$140,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-612

Resolution of findings of advisability and Resolution authorizing constructing a traffic signal on Greenwich Road approximately 850 feet north of 21st Street North, 472-83955, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures submitted.

ENCROACHMENT

APPROVAL OF ENCROACHMENT AGREEMENT FOR 330-334 NORTH MEAD. (DISTRICT VI)

Agenda Report No. 04-1097

A building has been constructed at 330-334 North Mead to provide a new site for City Arts and provide additional office and retail space in the Old Town Cinema area. As part of finalization of construction,

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a survey was commissioned that indicated several minor encroachments by the building on to City right-of-way. In order to complete the proposed development, the encroachments need to be resolved.

The City's Legal Department has a standard form for resolving encroachments. These types of encroachments are relatively common in the downtown area. Resolution of the encroachment will allow the development and utilization of this property.

There is no financial cost to the City. Development of the property will increase the property tax valuation in the area.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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GRAY'S 5TH ADD.

DESIGN SERVICES AGREEMENTS FOR GRAY'S 5TH ADDITION, NORTH OF 47TH STREET SOUTH, EAST OF HOOVER. (DISTRICT IV)

Agenda Report No. 04-1098

The City Council approved the water distribution system, sanitary sewer and paving improvements in Gray 5th Addition on August 6, 2002.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Gray's 5th Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$43,500, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MY HOUSE ADD.

MY HOUSE ADDITION, SOUTH OF 55TH STREET SOUTH, WEST OF BROADWAY. (DISTRICT IV)

Agenda Report No. 04-1099

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in My House Addition on June 8, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in My House Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$41,400, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

LATERAL 109

LATERAL 109, SANITARY SEWER NO. 23, WEST OF ARKANSAS, NORTH OF 41ST STREET NORTH. (DISTRICT VI)

Agenda Report No. 04-1099

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in My House Addition on June 8, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in My House Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$41,400, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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HIGHLAND SPRINGS HIGHLAND SPRINGS 3RD ADDITION, WEST OF 135TH STREET WEST, SOUTH OF CENTRAL. (DISTRICT V)

Agenda Report No. 04-1101

The City Council approved the water distribution system, sanitary sewer and paving improvements in Highland Springs 3rd Addition on May 20, 2003.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Highland Springs 3rd Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$46,200, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

HAWTHORNE HAWTHORNE 2ND, 3RD, 4TH, AND KRUG NORTH ADDITIONS, NORTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 04-1102

The City Council approved the sanitary sewer and paving improvements in Hawthorne 2nd, 3rd, 4th and Krug North Additions on August 17, 2004.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of sanitary sewer and paving in Hawthorne 2nd, 3rd, 4th and Krug North Additions. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$70,100, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

EXPENSE REPORT EXPENSE FOR SENIOR MANAGEMENT FOR MONTH OF SEPTEMBER 2004.

Motion--carried

Mayans moved that the report be received and filed. Motion carried 7 to 0.

AGREEMENTS CONTRACTS & AGREEMENTS, PROFESSIONAL CONTRACTS UNDER \$10,000 AND ANNUAL MAINTENANCE CONTRACTS OVER \$10,000, FOR OCTOBER 2004.

Motion--carried

Mayans moved that the report be received and filed. Motion carried 7 to 0.

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UNION PACIFIC

ACQUISITION OF PORTIONS OF THE ABANDONED UNION PACIFIC RAIL CORRIDOR FOR THE MIDTOWN GREENWAY. (DISTRICT VI)

Agenda Report No. 04-1103

In 1999, the Union Pacific Railroad abandoned the rail corridor that runs from Central Avenue and Wichita Street to Broadway and 15th Street North. Through this abandonment, rights to the corridor reverted to the adjacent property owners on both sides. The City has reviewed the former corridor and decided that it could be utilized to develop a greenway/lineal park connecting Horace Mann, Irving and Park Schools and the bicycle path on Central. In April 2002, the City Council approved \$74,000 in CDBG funding to acquire portions of the abandoned Union Pacific corridor from Central to 15th Street from adjacent property owners.

Due to their size and configuration, the tracts being acquired are not developable by themselves. The majority of the tracts abut developed properties but lie outside the fenced, defined boundaries of the properties. The purchase price of similar tracts was reviewed to estimate market value. These amounts were offered to the adjacent property owners with several accepting the offers. The attached contracts represent three tracts with a total value of \$3,000.

A budget of \$3,100 is requested, consisting of \$3,000 for acquisition and \$100 for recording fees. The funding source is previously approved CDBG funds.

Motion--
--carried

Mayans moved that the Budget be approved; the Real Estate Purchase Contracts approved and the necessary signatures authorized. Motion carried 7 to 0.

STREET ROW

STREET RIGHT-OF-WAY, 500 BLOCK OF WEST 27TH STREET NORTH. (DISTRICT VI)

Agenda Report No. 04-1104

On April 6, 2004, the City Council has approved the paving of 27th Street North between Fairview and Waco. This project was ordered by the City Council pursuant to State statutes. The improvements will include two lanes of asphalt paving, curb and gutter, and storm sewer.

One owner in the project area would not agree to dedicate the needed right of way. The right of way needed from this tract contains 11,000 square feet and is 25 feet wide by 440 feet long. There are no improvements on the tract. The owner has agreed to sell the City the right-of-way for \$4,000.

A budget of \$4,100 is requested for the acquisition. This includes \$4,000 for the acquisition and \$100 for closing costs. The cost of the acquisition will be included in the assessment district.

Motion--
--carried

Mayans moved that the budget be approved; the real estate purchase contract approved and the necessary signatures authorized. Motion carried 7 to 0.

COWSKIN CREEK

9907 WEST MAPLE FOR THE COWSKIN CREEK CHANNEL IMPROVEMENT PROJECT: KELLOGG TO MAPLE. (DISTRICT V)

Agenda Report No. 04-1105

The Cowskin Creek Channel Improvement Project will require the acquisition of all or part of fourteen tracts. One of the required acquisitions is 9907 West Maple. The tract encompasses 3.66 acres and is improved with three single-family residences and one duplex. All the units are tenant occupied. The project will require the removal of all improvements.

The acquisition was appraised for \$285,000. This value was arrived at assuming the houses would be sold separately. The appraiser estimated the gross value of separate sales to be \$350,000. From this amount, he deducted \$15,000 for platting and \$50,000 for sewer service. Based on staff review and

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past costs, platting and sewer construction is expected to cost \$47,000, which would increase the appraised value to \$303,000. The owner has agreed to settle for a negotiated amount of \$322,000.

The funding source is Storm Water Utility and Federal funding. A budget of \$388,000 is requested. This represents \$322,000 for acquisition, \$40,000 for tenant relocation, \$25,000 for demolition and \$1,000 for closing costs, surveys, title insurance and other miscellaneous costs.

Motion--
--carried

Mayans moved that the Budget be approved; the Real Estate Purchase Contracts approved and the necessary signatures authorized. Motion carried 7 to 0.

POLICE SUBSTATION POLICE SUBSTATION SECURITY ENHANCEMENTS. (DISTRICTS I, III, IV)

Agenda Report No. 04-1106

In September 2004, the City of Wichita received \$100,000 in non-matching grant funds under the Department of Homeland Security 2003 Part II Critical Infrastructure Protection grant to increase security at Century II and the Police Department substations. The grant award was approved by the City Council on October 12, 2004, with Century II and the Police Department each receiving \$50,000. City staff has identified security enhancements consistent with the intent of the grant in the form of electronic access control devices and security cameras for the Police substations. Installation of access control and electronic surveillance equipment will greatly enhance security at the North, West, and South substations.

The Police Department's substations have limited ability to prevent unauthorized access to non-public areas. Employees working within the facilities, especially after normal hours, are unable to monitor activities outside the building and in parking areas. In addition, as part of an internal study, a recommendation was made during the 2005 budget process to reclassify Station Officers as Clerk III positions, for a total cost savings of \$5,000 per position annually. Station Clerks have recently become more involved in data entry of traffic accidents and miscellaneous reports. A Clerk III position, which by definition requires more keyboarding and data entry skills, would be a better match for the job description than a Station Clerk, but would result in the removal of a firearm for personnel at the front desk at the substations. The addition of access control and electronic surveillance equipment will allow the clerks manning the front desk at the substations to maintain security and restrict unauthorized access to law enforcement sensitive information.

The Wichita Police Department has received a proposal from Sandifer Engineering, the City's contract vendor for security systems, for installation of access control and video monitoring equipment at the North, West, and South substations. The total cost for equipment and installation is \$27,040. Funding is provided in the Critical Infrastructure Protection grant.

Motion--carried

Mayans moved that the proposal be approved and the expense authorized. Motion carried 7 to 0.

TOURISM

TOURISM RESEARCH/MARKETING USE FOR CONVENTION AND VISITORS BUREAU.

Agenda Report No. 04-1107

In an effort to attract tourists and visitors to Wichita, a "Tourism Research and/or Marketing" fund is part of the Tourism and Convention Fund in the annual budget. This allocation is funded from the transient guest tax. It is earmarked to fund special marketing and research activities that the Greater Wichita Convention and Visitors Bureau and City of Wichita want to develop, with the approval of City Council.

The Greater Wichita Convention & Visitors Bureau is requesting funds for a new statewide marketing campaign. This campaign also addresses one of the key "Visioneering Wichita" efforts that outlined a need for better image and marketing efforts from Wichita. The Greater Wichita Convention & Visitors Bureau has developed a campaign that does just that.

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Research has found that the primary reasons tourists come to Wichita are to visit family and friends, and to tour the area for these specific reasons: shopping, sporting events and attractions (in that order). The new marketing campaign has a strategic message that addresses these points, offering a variety of high-quality shopping, dining, events and entertainment in an easy day's drive. This campaign is bold and edgy and does not depict Wichita as a "cowtown" or the "Air Capital" but rather breaks through the clutter with innovative, eye-catching graphics targeting the younger crowd. The tag line is simply: "Wichita – We got the goods."

Staff has worked with the GWCVB on this budget and feels that these expenses are necessary allocations for this campaign to properly market Wichita. It is anticipated that these investments will be paid back through the transient guest tax fund and through visitors spending money in the community at area retail, dining and entertainment facilities.

The 2004 Proposed Budget has \$75,000 in this fund. The entire allocation will be used on this effort.

There are no legal considerations.

Motion--
--carried

Mayans moved that the allocation from the "Tourism Research/Marketing" fund with the Convention and Tourism Bureau be approved and the necessary signatures authorized. Motion carried 7 to 0.

EASEMENT RELEASE RELEASE OF EASEMENT LOCATED ADJACENT TO THE 200 BLOCK OF NORTH WICHITA. (DISTRICT VI)

Agenda Report No. 04-1108

The owners of the parking lot at 300 West 1st Street have asked the City to agree to the release of a portion of Wichita Street right-of-way easement adjacent to the east side of their property. Wichita Street right-of-way is 100 feet wide in this area. In the past, there was a railroad line in the west side of the right-of-way. This line has been abandoned and the tracks removed.

The owners have offered \$25,000 (approximately \$1.00 per square foot) for the release of the City easement west of sixteen feet west of the curb of Wichita Street. This request has been reviewed by Engineering and other City staff. It was felt that if the easement released and the area vacated, the remaining right-of-way is sufficient for the City's current and future needs.

The City will receive cash consideration from the sale of the property at closing. In addition, the property will return to the tax rolls and likely increase in tax value through development.

Motion--
--carried

Mayans moved that the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

GOLDSMITH'S APPROVAL OF SALE OF PROPERTY FINANCED BY INDUSTRIAL REVENUE BONDS, GOLDSMITHS, INC. (DISTRICT II)

Agenda Report No. 04-1109

On July 17, 2001, the City Council approved the issuance of Industrial Revenue Bonds (IRBs) for Arst Realty, LLC in the amount of \$2,115,000 for the purpose of acquiring, constructing and equipping a new corporate headquarters and warehouse facility for Goldsmith's Inc., located at 8853 E. 37th Street North in northeast Wichita. In addition to the IRBs, the City Council approved a 100%, 5+5 year tax exemption on the bond-financed property. The bonds were privately placed with GE Capital ("Bondholder").

On June 10, 2003, Goldsmith's Inc. filed for bankruptcy and ceased its business operations, causing the bond issue to go into default. Since then, Rodger Arst, the CEO of Goldsmith's and the principal of Arst Realty, has been negotiating a settlement with the Bondholder. Mr. Arst has recently found buyers

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for the bond-financed property and has secured the consent of the Bondholder to release the property from the lien of the bonds. The buyers are local real estate developers Tom and Mike Boyd, doing business as TMD Southglen, L.L.C. They have arranged to lease the building to Vatterott College, a technical training institution located across the street from the former Goldsmith's facility.

Under the terms of the IRB documents, City Council approval is required for the release of the bond-financed property from the lien of the IRB Trust Indenture and for the sale of the property. In order to release the property from the Indenture, the City Council must authorize the execution of a Partial Release of Indenture. Even though the property is released, the IRBs will continue to be personally guaranteed by Rodger Arst. In order for the property to be conveyed to the purchasers, the City Council must authorize the execution of a Deed, Bill of Sale and Termination and Release of Lease. These actions are authorized by the adoption of the attached Resolution, which also instructs the Trustee Bank to deposit the net proceeds of the sale into the Principal and Interest Account for payment to the Bondholder. As required by bond documents, the Bondholder has consented to these arrangements.

The City of Wichita has no financial obligations that result from the default of the Goldsmith's IRBs. Upon sale of the Goldsmith's property to TMD Southglen, L.L.C., the property will be returned to the tax rolls. Based on current valuations and mill levies, total taxes on the subject property are approximately \$55,000 per year, of which approximately \$15,000 will be paid to the City.

The Resolution and the documents authorized thereunder have been prepared by the City's Bond Counsel and approved as to form by the Law Department.

Motion --

Mayans moved that the Resolution approving the sale of the Goldsmith's property and authorizing the execution of a Bill of Sale, Deed, Termination and Release of Lease and Partial Release of Indenture, be adopted; and the necessary signatures be authorized. Motion carried 7 to 0.

RESOLUTION NO. 04-611

A Resolution of the City of Wichita, Kansas, approving sale of Bond-Financed Project; authorizing execution of Deed, Bill of Sale, termination and release of the lease, partial release of indenture and all such other documents necessary to convey title to such facility, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RIVER CORRIDOR

RIVER CORRIDOR AREA PHASE I AND II ENVIRONMENTAL SITE ASSESSMENT.

Agenda Report No. 04-1110

A Phase I and II environmental site assessment of the River Corridor development area is needed for routine environmental due diligence. The Kansas Department of Health and Environment administers a Brownfield Program that would pay the cost of the study, estimated at between \$12,000 and \$20,000.

Use of the KDHE program would not only save the City \$12,000 to \$20,000 in investigation costs, but would also allow the Phase I and II assessment to be completed in a more timely manner. Application for KDHE funding can be completed by Public Works and Environmental Health staff, and requires only City Council to proceed.

There is no cost to the City; KDHE will conduct and fund the study.

The Department of Law will review the application prior to submission.

Motion--
--carried

Mayans moved that the application for KDHE funding of the Phase I and II investigation be approved and staff be authorized to proceed with the project. Motion carried 7 to 0.

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CONDEMNATION AWARD

PAYMENT OF CONDEMNATION AWARD, CASE NO. 04 CV 2547-WATERWALK DEVELOPMENT. (DISTRICT I)

Agenda Report No. 04-1111

The City has identified the need to acquire a tract of land located at 540 S. Water Street in connection with the public and private improvements to be constructed in connection with the WaterWalk Project. This tract of land is owned by the James L. Crawford, Revocable Living Trust. Earlier this year the City initiated eminent domain proceedings to acquire this property. On October 17, 2004, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition of the property to be \$300,000.00. The court awarded the three appraisers fees in the amount of \$2,500.00 each. Court costs are \$111.

In order for the City to acquire this property, it must pay the award, together with fees and costs, to the Clerk of the District Court on or before November 17, 2004.

The costs of acquiring these properties will be paid from project funds.

The City has until November 17, 2004, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned.

Motion--

Mayans moved that the payment to the Clerk of the District Court in the amount of \$307,611.00 for acquisition of property interests condemned in Case No. 04 CV 2547 be authorized. Motion carried 7 to 0.

--carried

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ NOVEMBER 2, 2004)

a) Acquisition by eminent domain of tracts required for the East Kellogg/Rock Road Improvement Project. (District II)

ORDINANCE NO.46-397

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and widening of Kellogg Avenue in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

a) Sidewalk repair assessments

ORDINANCE NO.46-398

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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- c) ZON 2003-12 - west side of Greenwich Road and North of Harry. (District II)

ORDINANCE NO.46-399

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2004-00012

- d) ZON2004-00046 - generally located at the Intersection of South Exchange and West MacArthur. (District IV)

ORDINANCE NO.46-400

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2004-00046
Council Member Schlapp left the bench.

UNFINISHED BUSINESS

FITNESS 2000

PUBLIC HEARING AND REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, FITNESS 2000 24HR HEALTH CLUBS. (DISTRICT V) (DEFERRED OCTOBER 12, 2004)

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 04-0997A.

Fitness 2000 24hr Health Clubs (Fitness 2000) is requesting the issuance of a one-year letter of intent for industrial revenue bonds (IRBs) in an amount not to exceed \$5,000,000. Bond proceeds will be used to finance the cost of acquiring, constructing and equipping a new health and fitness facility. Fitness 2000 is also requesting the City Council's approval of a 50% five-year tax exemption on bond-financed improvements and a second five-year exemption upon City Council approval.

Fitness 2000 was founded in Wichita in 1996 at its original facility located at 1046 S. Oliver, in the Parklane Shopping Center. Fitness 2000 currently has two health clubs, which are 100% managed by Mohsen Etezazi, the sole shareholder of Fitness 2000 Inc., a Kansas corporation. Fitness 2000 currently serves approximately 16,000 members, supported by more than 50 employees at its locations; each known for their quality service and leading-edge fitness equipment and programs. The second Fitness 2000 health club located at 2234 S. Oliver, is a women's only full service 24-hour health club, which offers a special focus on female health and fitness without any of the concerns or distractions which might otherwise be inherent in the Co-ed fitness environment.

Fitness 2000 health clubs currently offer more than 90 classes a week in Wichita, including the latest in aerobic conditioning in a variety of formats, such as step aerobics, Pilates, Bosu, and water aerobics, as well as yoga and stress management classes. Personal trainers, group fitness instructors, and membership representatives serve the membership at each location, and childcare services are also available at each location. Fitness 2000 centers have 24-hour service as well as towel service, locker rooms, saunas, hot tub, indoor track, indoor pool and steam rooms and is now seeking to expand its services to west Wichita and build further on a tradition of health and fitness.

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Fitness 2000's proposed project is to construct and equip a new health and fitness facility on the southeast corner of Ridge Road and Central Ave. in West Wichita. Fitness 2000 has committed to hire 50 new employees. In addition to the standard fitness facilities present in this existing Fitness 2000 clubs, the new facility will include tennis, basketball and racquetball courts.

An analysis of the proposed uses of project funds is:

Construction of West Wichita facility	\$3,483,800
Equipment and fixtures	1,500,000
Cost of Issuance	<u>16,200</u>
Total Cost of Project:	\$5,000,000

The Company plans to privately place the bonds with a financial institution with which it has an established banking relationship. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City	2.68 to one
County	3.08 to one
USD 259	1.80 to one
State	2.12 to one

After careful consideration, staff are recommending that the City Council deny the request from Fitness 2000 for industrial revenue bonds and property tax abatement. While Fitness 2000 is a fine business that provides valuable services to the Wichita community, it does not directly generate new wealth for the community. New wealth is generated for the community by businesses that export goods and services and import dollars from outside the area. Fitness 2000 generates most if not all of its revenue by selling its services to area residents.

IRBs and tax abatement are among the City's most valuable economic development incentive tools, and are effective when used to influence businesses that could easily locate in other regions, to locate here instead. Fitness 2000 must locate in the Wichita area in order to take advantage of the consumer market here. In staff's view, the City should reserve this important incentive for projects that truly create new wealth for the community, and not to help establish level playing fields between competing businesses.

Fitness 2000 agrees to pay all costs of issuing the bonds, including the City's \$2,500 annual IRB administrative fee for the term of the bonds. The estimated first year's taxes on Fitness' proposed \$5,000,000 expansion would be \$98,966, on real property improvements and \$36,516 on personal property, based on the 2003 mill levy. The requested 50% tax exemption would be divided among the taxing entities as follows: City - \$19,020; County/State - \$18,074; and USD 259 - \$30,647. In addition, construction costs and personal property paid for with IRB funds are exempt from state and local sales tax, which are estimated at \$237,162.

Any bond documents needed for the issuance of bonds would be prepared by the City's bond counsel. The Law Department reviews and approves the form of all bond documents prior to the issuance of any bonds.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion --

Martz moved that public hearing be closed and the request be denied for Fitness 2000 for a Letter of Intent to issue industrial revenue bonds and property tax abatement. Motion carried 5 to 1;

-- carried

(Mayans, no; Schlapp, absent)

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OFF AGENDA ITEM

GENESIS IRB

GENESIS IRB

- Council Member Gray This issue came up before, earlier this year with Genesis, and I sat from this bench and told the people from Fitness 2000 and from another facility in town that, if we were going to open this door and allow this to take place for Genesis, then we have to make it applicable across the board to the other organizations to keep it fair. We're not in the business up here of making special exemptions for one organization and not for another. That's not the appropriate nature of government. See that and seeing that this Council, including myself, voted to deny the Industrial Revenue Bonds and tax exemptions for Fitness 2000.
- Motion -- Gray moved that the Council reconsider the tax abatements and IRB's for Genesis. Motion seconded by Lambke.
- Mayor Mayans Well, I think Mr. Gray, that this is an issue that we should discuss in another place, but here, at this time.
- Council Member Gray I'm amicable to that. I just feel on the issue of principality that I take this position. That if this something the Council feels we should discuss at a later time, I'm fine with that. Maybe that would be the appropriate nature of doing this.
- Mayor Mayans I'm certainly was not aware that there was going to be a motion to rescind the letter and the bonds on the ones that we have already granted, and I think we should have some discussion on that. Before we were going to move to do that, I would much rather have seen it on the Agenda as an Item than to be brought up at this time. I'm with you. I agree that we should be fair, and that's why I voted against the motion not to grant Fitness 2000, because we did that for another company, and I know that you feel the same way. I think that we were trying to do the right thing with the first business and we were trying to prevent dollars from leaving the community vs. coming into the community. So, I would much rather that we discuss this among ourselves, and then bring it back as an Item on the Agenda, if that's what we want to do, keeping in mind that does send kind of a sad message to other businesses who now will be in fear that there could be a newspaper article and media attempt to discredit them, and that we then in turn will heed our advice to those media events and them take the bonds away from them, so that business, we would be setting, I think a terrible precedents to have business think that that they do not know where they stand, even after they have begun construction. So I think there has to be a concern there that we have to discuss, so I was just wandering whether you would take back you motion, rescind your motion.
- Council Member Gray I respect and appreciate the things that you've brought forth in this discussion. You brought some good points to light, and in fairness to you, to let you know this isn't something I came into this room, hoping or thinking that I would necessarily do today. It was something, on the spur of the moment. I knew it had to be done, so I would be willing to withdraw my motion, but I do know there are some other Council Members that are wanting to speak on this---as long as Staff is aware, this is something that I would like discussed at a future meeting.
- Council Member Fearey I have a question, and then I have something I'd like to say. Mr. Rebenstorf, it's my understanding that we have only voted for a Letter-of-Intent?
- Gary Rebenstorf Director of Law stated that that was correct.
- Council Member Fearey And that the Bonds are—I may have more than one questions—and that the bonds are not a done deal until we vote on the bonds.
- Gary Rebenstorf Correct. The Letter of Intent has been issued. The Bonds when they were ready to be presented to the Council for approval would come back as a separate Agenda Item for the Council to approve or disapprove.
- Fearey And any company should understand that a Letter of Intent is just that, that then there is another vote.

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- Gary Rebenstorf Director of Law stated that in the materials, and he believe it's even in the Letter of Intent, there is a paragraph or a sentence that indicates that it is the business asking for the bonds, understands that it is a Letter of Intent and that the Council could change its mind.
- Fearey What I'd like to say, and this is partly to my fellow Council Members, and partly, I guess to the audience and TV land if anybody is watching. I think I made a mistake, and I will sit up here and say that, and it's not just because of a newspaper article. It's not just because of e-mails that I've received. It's because of doing more research, and I guess, one thing that makes me really like this job, is because I do learn something new everyday, and the Genesis bond issue came to us during a time when we didn't have a City Manager, and I think that it brought some good things up. We certainly now are working on a better policy, we're working with Wichita State. I think some good came out of it, but I think that, that morning, I voted incorrectly, and I would like to see this resolved. I do think it's unfair to treat one company one way and another in another way, and I guess I certainly don't mind if the motion is withdrawn, but I would like to see this back on our Agenda next week, so that we don't have a company out there that's hanging in limbo wandering what we are going to do.
- Council Member Brewer Actually, Gary, you almost answered most of the questions, but I do think that we need an opportunity to talk with the City Manager and also, I think, with you , about some legalities of some issues, and that way each Council Member can easily understand what direction they're going.
- withdrawn Gray withdrew his motion and Lambke withdrew his second to that motion.
- Motion --
-- carried Mayans moved that the Staff meet with the Council and the legal department to see the legal ramifications of taking this type of action at a future meeting. Motion carried 6 to 0. (Schlapp absent)

Council Member Schlapp present.

VAC2004-35

VAC2004-35-REQUEST TO VACATE MULTIPLE PLATTED EASEMENTS LOCATED MIDWAY BETWEEN OLIVER AVENUE AND EDMOOR DRIVE ON THE SOUTHEAST CORNER OF KELLOGG AVENUE AND PINECREST AVENUE. (DISTRICT III) (DEFERRED NOVEMBER 2, 2004)

Agenda Report No. 04-1082A

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (10-1)

The applicant proposes vacation of multiple platted easements (see legal) located on Lots 1, 2 & 8, Cain and Smith's Replat of a part of Block 3, the Beverly Manor Addition and Lot 2, New Western Addition. The Cain and Smith's Replat of a part of Block 3, the Beverly Manor Addition was recorded July 1, 1992. The New Western Addition was recorded March 28, 1985.

There is an existing encroachment (building) on the 14-foot easement located on Lots 1 & 2, Cain and Smith's Replat of a part of Block 3, the Beverly Manor Addition. There are no water or sewer lines in this easement or the other easements. The applicant proposes to redevelop the site.

The MAPC voted to approve (10-1) the vacation request, minus staff's recommendation of dedication of ten feet of contingent right-of-way (ROW) along the site's Kellogg Drive frontage and staff's subsequent alternative condition (in response to the MAPC's indication of that they would delete the contingent ROW dedication) of an outright dedication of a 10-foot wide sidewalk and utility easement along the Kellogg Drive frontage. The City Engineer is appealing MAPC's recommendation to not follow these recommendations. The MAPC has the authority to modify Subdivision Standards with findings to support their action. The MAPC's findings were that neither the ROW or the easement were needed at this time and that the ROW should have been purchased with the Kellogg improvement project funds. Prior to the MAPC public hearing, the MAPC's Subdivision Committee had voted

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unanimously to approve the vacation request, with all of the conditions for approval, including the dedication of ten feet of contingent ROW along the site's Kellogg Drive frontage.

The staff recommendation for the contingent dedication of ROW was made per the Subdivision Regulation standards. The alternative condition of dedicating ten feet for a sidewalk and utility easement was made in anticipation of future utilities being placed in the immediate area. Staff had noted that the properties east and west of the site had, in the past, dedicated ROW along their Kellogg Drive frontage.

No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

The Wichita City Council deferred action on this request at their November 2, 2004 meeting and will reconsider it at their November 9, 2004 meeting.

A certified copy of the Vacation Order will be recorded with the Register of Deeds. The applicant will provide Public Works with a sewer petition for the extension of sewer service.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard.

Terry Smith Terry Smith, Baughman Company, stated he was speaking on behalf of the applicant. Stated the property owner understands the City's desire for additional right-of-way, but has compliance issues today and for the future. Asked if landscaping would be replaced by the City if changes were made later.

John Schlegel Director of Planning explained the conditions for dedicating right-of-ways and the Landscaping Ordinance and that if the landscaping was disturbed later, it would be replaced.

Motion -- Lambke moved that Council follow the Staff recommendation and approve the Vacation Order, including the dedication of a 10' wide sidewalk and utility easement along the site's Kellogg Drive frontage and authorize the necessary signatures. Motion carried 7 to 0.
-- carried

NEW BUSINESS

THE BOEING CO. PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS, THE BOEING COMPANY. (DISTRICT III)

(Mayans and Brewer abstained from discussion and voting due to conflicts of interest)

Allen Bell Director of Economic Development reviewed the Item.

Agenda Report No. 04-1114

Since 1979, the City of Wichita has approved over \$3.4 billion in Industrial Revenue bond financing, in conjunction with ad valorem tax exemptions, to Boeing Commercial Airplanes, Wichita Division "Boeing Wichita", a division of The Boeing Company. Boeing Wichita is now requesting the issuance of City of Wichita Industrial Revenue Bonds in an amount not-to-exceed \$67 million, under the authority of the Letter of Intent approved November 9, 1999 and as extended for five years on July 13, 2004.

Boeing Wichita, located on both sides of Oliver Street from 31st Street South to South of 47th Street, is Kansas' largest employer, with approximately 12,000 employees and an annual payroll of \$850 million. Boeing Wichita is engaged in manufacturing support of Boeing commercial airplanes and military aircraft modification. All Boeing Wichita sales are exported out of the state of Kansas.

Bond proceeds will be used for acquisition of new, advanced manufacturing equipment and enhancement of existing facilities. Some of the planned equipment purchases include riveting systems,

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milling machines and airplane program tooling. Boeing advises the new equipment will have no adverse effect on Wichita's ambient air quality.

Acquisition of advanced technologies and the construction of new facilities is required for Boeing Wichita to compete for commercial and military production, in addition to sustaining on-going production programs. In these markedly different and difficult times, the bond proceeds will have an impact in stabilizing employment as it prepares to introduce the new 7E7 into the marketplace and will substantially assist with helping Boeing Wichita retain many critical professional, technical, and highly skilled employees. The economic impact of planned upgrades and expansion has a direct cascade effect on engineering and architect firms, machine shops, and material providers in Wichita.

The firm of Kutak Rock of Omaha, Nebraska will serve as bond counsel in the transaction. The Boeing Company will purchase the Bonds, as a result of which, there is no need for an underwriter. Boeing Wichita has agreed to comply with the Standard Conditions contained in the City's IRB Policy.

The Boeing Company agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The Boeing Company qualifies for a ten-year 100% property tax exemption on the bond financed property on the basis of membership in the local aircraft manufacturing community, level of capital investment, and 100% out-of-state sales exportation. Consistent with the intent of the City Council in its action approving the November 9, 1999 letter of intent and as extended for five years on July 13, 2004, the ten-year period of exemption is to apply without a review by the Council at the five-year point. The IRB Lease document to be approved by the Bond Ordinance has been drafted accordingly. This is consistent with all discussion had at the public hearing on the item, although references to a five-year review were inadvertently included in the November 9, 1999 minutes from a superseded agenda report.

The City Attorney's Office has reviewed and approved the Bond Ordinance and principal financing documents.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--

Lambke moved that the public hearing be closed; the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$67 million, be placed on first reading. Motion carried 5 to 0 (Mayans and Brewer abstained).

--carried

ORDINANCE

An Ordinance approving and authorizing the execution of a Lease Agreement between the Boeing Company and the City of Wichita, Kansas; approving and authorizing the execution of an Indenture of Trust between said City and the Bank of New York Trust Company, N.A.; pledging certain payments under said Lease Agreement and monies and securities held by the Trustee under the terms of said Indenture of Trust; authorizing and directing the issuance of Industrial Revenue Bonds Series VI, 2004, (The Boeing Company Project) of said City in the principal amount of \$67,000,000 for the purpose of providing funds for the acquisition, construction, reconstruction and improvement of certain Industrial and Manufacturing Facilities of Boeing Commercial Airplanes, Wichita Division, a division of the Boeing Company, a Delaware Corporation, in Sedgwick County, Kansas; designating the Trustee and the Paying Agent for Said bonds; authorizing the sale of Said Bonds and the Execution of a Bond Purchase Agreement therefore; approving and authorizing the execution of an Administrative Service Fee Agreement; and authorizing the execution and delivery of certain related instruments, introduced and under the rules laid over.

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(Addendum Item #24A)

IAFF AND SEIU

IAFF AND SEIU MEMORANDUM OF AGREEMENTS.

Lori Wilkerson, Acting Personnel Director, reviewed the Item.

Agenda Report No. 04-1135

The City has reached a three-year agreement with both the IAFF and SEIU. The IAFF agreement will be in effect for the period of December 20, 2003, through December 15, 2006. The SEIU agreement will be in effect for the period of December 18, 2004, through December 14, 2007.

The IAFF's original three-year agreement ended on December 19, 2003, with negotiations starting in mid-year 2003. While both parties were unable to reach an agreement prior to the end date of the original agreement, negotiations have been ongoing since that time to finalize a tentative agreement that was amenable to both parties. SEIU's original one-year agreement will end on December 17, 2004.

The three-year agreements call for wage increases of three percent for each year of the agreements, increases in longevity pay, expanded substance abuse testing, formation of pay-for-performance committees, and other minor language changes agreed to by the parties. The wage provision for the IAFF agreement will be retroactive to December 20, 2003.

The City has agreed to the following key Tentative Agreement items with the IAFF:

- § A 3% across the board increase retroactive to December 20, 2003
- § A 3% across the board increase effective December 18, 2004
- § A 3% across the board increase effective December 17, 2005
- § Increased Longevity pay:
 - Ø Current Longevity pay – Employees who have completed 11 years of service shall receive \$2.00 per month times the number of years of accumulated service.
 - Ø New Longevity pay provision
 - o Employees who have completed 6 years of service shall receive \$2.00 per month times the number of years of accumulative service
 - o After 11 years of service employees shall receive \$4.00 per month times the number of years of accumulative service.
 - o Effective December 17, 2005 employees who have completed 11 years of service shall receive \$5.00 per month times the number of years of accumulative service.
- § Increased uniform allowance:
 - o An increase of \$50.00 in 2004 for a total annual allowance of \$400.00
 - o No increase in 2005 for a total annual allowance of \$400.00
 - o An increase of \$50.00 in 2006 for a total annual allowance of \$450.00
- § A performance pay committee will be formed to develop a performance-based pay system.
- § Random drug and alcohol testing, beginning July 1, 2005. Both parties agree to meet and confer in good faith to develop an acceptable policy.
- § Insurance language revised to meet the same level of health insurance programs available to all full-time City employees.

SEIU's one-year agreement ends in December of this year. The City has agreed to the following key Tentative Agreement items with the SEIU:

- § A 3% across the board increase effective the first pay period in 2005
- § A 3% across the board increase effective the first pay period in 2006
- § A 3% across the board increase effective the first pay period in 2007
- § Increased Longevity pay:
 - Ø Current Longevity pay – Employees who have completed 6 years of service shall receive \$2.00 per month times the number of years of accumulated service.
 - Ø New Longevity pay provision
 - o Employees who have completed 6 years of service shall receive \$2.00 per month times the number of years of accumulative service.

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- o After 11 years of service employees shall receive \$4.00 per month times the number of years of accumulative service.
- o Effective December 17, 2005 employees who have completed 11 years of service shall receive \$5.00 per month times the number of years of accumulative service.
- § A performance pay committee will be formed to develop a performance-based pay system.
- § Beginning July 1, 2005, all safety sensitive employees shall be subject to random drug and alcohol testing. Both parties agree to meet and confer in good faith to develop an acceptable policy.
- § Overtime language revisions made to reflect a definition of what is considered an emergency.

The total cost associated with contract negotiations and salary/wage adjustments will be financed with budgetary and reserve funds contained in the 2004 approved budget, with an approximate amount above the approved budget of \$250,000. Staff will work with the City Council to provide funding options for the revised 2005 and 2006 budgets.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Doug Pickard Doug Pickard, IAFF Union President, spoke positively regarding the Contracts.

Harold Schlechtweg, Harold Schlechtweg, Business Representative SEIU, also commented favorably about the Contracts.

Motion -- Mayans moved that the Contracts be approved and the signatures be authorized. Motion carried
-- carried 7 to 0.

LEGISLATIVE PROG. 2005 CITY OF WICHITA LEGISLATIVE PROGRAM.

Jeanne Goodvin Special Projects Director reviewed the Item.

Agenda Report No. 04-1115

The process of drafting the 2005 Legislative Program began in August when requests for proposed legislation were distributed to City Council Members and City Departments. Discussions have also taken place with Sedgwick County, Regional Economic Area Partnership (REAP), League of Kansas Municipalities, Kansas Association of Counties, USD 259, Wichita Area Chamber of Commerce, Wichita Independent Business Association, in an effort to identify and prepare for issues, which are likely to be considered by the 2005 Legislature.

The City of Wichita Legislative Program is intended to represent the adopted policies and positions of the Wichita City Council.

The proposed 2005 Legislative Program contains policy positions on a variety of issues, allowing the City to respond to specific bills and proposals within an established policy framework.

Budget and financial issues will undoubtedly dominate the 2005 session of the Kansas Legislature. It is very likely attempts will be made to redirect funding now earmarked for local government programs. Protecting those sources of funding and preserving the Constitutional Right of Home Rule and local control are the major themes in the City of Wichita's 2005 Legislative Program.

The requests for new legislative initiatives by the City of Wichita are focused on those achievable issues that will benefit the City.

Position statements and proposals in the 2005 Legislative Program provide support for the City's stated goal to preserve its Home Rule authority and to secure legislative authority to enhance and improve government operations and services for the public.

Any number of legislative actions can impact City finances. The 2005 Legislative Program is designed to help the City maintain or improve its ability to control the financing of local government services to best serve the citizens of Wichita.

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Mayor Mayans Mayans Mayor requested that the Arena that just passed be added to the list of priorities for the Legislative Program.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard/

Cybil Strum Ms. Strum asked if the Arena would cause the cost of tickets to go down.

Mayor Mayans After Mayor Mayans explained the purpose of the Legislative Program, Ms. Strum stated that she supports it.

Motion -- Mayans moved that the 2005 Legislative Program be adopted, with the arena being a priority. Motion
-- carried carried 7 to 0.

2005 LIQUOR TAX ALLOCATION OF 2005 SPECIAL LIQUOR TAX FUNDS.

Cathy Holdeman Assistant City Manager reviewed the Item; and also invited Mariann Fountain, Clinical Manager, Comcare Addiction Treatment Services, Sedgwick County, to participate in the review.

Agenda Report No. 04-1116

In December of 1999 the City Council changed the way Special Liquor Tax allocations are made to fund alcohol and substance abuse providers. All providing agencies were required to develop outcomes-based measurements to demonstrate that their work makes a meaningful and measurable difference in the lives of their clients. At that time the Council also laid the groundwork for the formation of a Special Liquor Tax Coalition, comprised of local substance abuse professionals. The Coalition is responsible for assessing needs and barriers to service and with making funding recommendations to the City Council. The City Council also authorized selecting an administrator outside the City structure for the Special Liquor Tax Funds.

On March 28, 2000 COMCARE of Sedgwick County was selected as the administrator to monitor the programs funded by Special Liquor Tax dollars and to ensure that the providers used outcome-based measurements. As part of their management contract COMCARE organized the Special Liquor Tax Coalition and provides staff support.

In 2004 there are eighteen (18) alcohol and substance prevention and/or treatment projects receiving Special Liquor Tax funds. At their March 18, 2004 meeting the City Council authorized the issuance of a competitive Special Liquor Tax Request for Proposals (RFP) for the funding of 2005 calendar year projects. City staff issued a comprehensive RFP, which incorporated the City Council's guidelines for funding established at the December 1999 meeting, and solicited proposals in four categories: (1) alcohol and substance prevention and treatment programs; (2) detoxification programs; (3) case management programs; and (4) innovative projects.

The Council is being requested to approve 2005 funding recommendations made by the Special Liquor Tax Coalition for proposals received in response to the RFP. The City received twenty-one (21) proposals from sixteen (16) different organizations with requested funding totaling more than \$2.1 million. Available funding for January 1, 2005 through December 31, 2005 is projected at \$1,442,980.

The Special Liquor Tax Coalition met and designated a subcommittee to review the responses to the RFP. After review by the subcommittee, recommendations were brought to the full committee for its review and action. The Coalition is recommending the following funding levels.

<u>Agency</u>	<u>Funds</u> <u>Requested</u>	<u>2004 Funding</u> <u>Level</u>	<u>Coalition</u> <u>Recommendation</u>
Behavioral Health Center	\$ 117,616	\$ 98,865	\$ 98,865
Big Brothers/Big Sisters	\$ 147,265	\$ 73,400	\$ 73,400
Center for Health and Wellness	\$ 178,000	\$ 105,527	\$ 105,527
Communities in Schools	\$ 31,652	\$ 30,557	\$ 31,652
Friends of Recovery	\$ 15,000	N/A - New	\$ 10,000

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Grant Chapel AME	\$ 12,250	N/A – New	\$ 0
Knox Center	\$ 50,000	\$ 15,000	\$ 34,215
Mental Health Association/Pathways	\$ 42,000	\$ 32,625	\$ 42,000
Mid-America All Indian Center, IATS	\$ 69,320	\$ 43,870	\$ 48,870
Miracles, Children's Prevention	\$ 78,143	\$ 71,800	\$ 71,800
Miracles, Case Management	\$ 251,302.75	\$ 241,584	\$150,000
Parallax, Detox.	\$ 275,870	\$ 250,000	\$ 275,870
Parallax, Chronic Relapse	\$ 121,137	\$ 109,410	\$ 109,410
Regional Prevention Center	\$ 161,355	\$ 149,070	\$ 149,070
Regional Prevention Center (SFTI)	\$ 82,275	\$ 76,394	\$ 0
Tiyospaye/Pueblo	\$ 70,000	\$ 15,000	\$ 70,000
Tiyospaye/CBC	\$ 73,375	\$ 68,535	\$ 68,535
Youth Dev. Services/Challenge Club	\$ 46,396	\$ 33,530	\$ 33,530
Youth Dev. Services/Parent Academy	\$ 53,521	N/A – New	\$ 0
SACK	\$ 141,500	N/A – New	\$ 70,236
Wichita ACTS	\$ 92,679	N/A – New	\$ 0
Totals	\$ 2,110,656.75	\$1,415,167	\$1,442,980

The recommendations provided by the Coalition would fund thirteen (13) prevention/treatment programs, two (2) innovative projects, one (1) detoxification program and one (1) case management program, for a total of seventeen (17) programs.

2005 funding will be available in the Special Liquor Tax Fund to contract with providers for the seventeen (17) recommended programs totaling \$1,442,980. The contracts will not obligate general fund monies.

Approval as to form by the Department of Law will be obtained prior to the execution of the 2005 Special Liquor Tax provider contracts.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Mayor Mayans After asking several questions, Mayans requested that before this Item comes to the Council next year, he would like the City Manager to review the program at a Workshop.

Motion Mayans moved that the public hearing be closed; 2005 funding allocations be approved; the development of provider contracts, based on those allocations, be approved; and that the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

HISTORIC PRES. AUTHORIZE SUBMISSION OF HISTORIC PRESERVATION FUND GRANT PROPOSAL FY 2005. (ALL DISTRICTS)

John Schlegel Director of Planning reviewed the Item.

Agenda Report No. 04-1117

Staff Recommendation: Authorize the submittal of the grant applications.

As a Certified Local Government (CLG), the City of Wichita is eligible to participate in the Historic Preservation Fund (HPF) Grant program administered by the Kansas State Historic Preservation Office to finance activities that will contribute to planning for the preservation of our built environment and archaeological resources. These proposals are for projects that the Historic Preservation Board has adopted as part of their annual work program. City Council action is needed to authorize the Mayor to sign the assurances required for submission of the grant proposal.

The grant is to provide funding for three projects:

- 1.) Salary assistance to fund a part-time position to assist the Preservation Planner with activities carried out by the Historic Preservation Office and complete the historic inventory survey of the historic

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Central Business District. The federal grant for the position is \$40,150, which includes salary and required employment benefits.

2.) Funding to inventory and issue a written report of WPA structures in Wichita and prepare four to six National Register nominations for selected WPA structures. The federal grant for report and National Register nominations is \$8,000.

3.) Funding to present a technical assistance workshop for historic property owners. Target audience will be historic property owners, contractors, architects and realtors in the Wichita vicinity. The federal grant is \$6,900 to pay for travel for speakers and conference facilities and activities.

HPF grants require a 40 percent match of the total project cost. The total cost is \$92,366 with federal grant funds of \$55,050 and a City match of \$37,316. City match is provided through staff time, there is no actual cash match.

The City of Wichita Historic Preservation Office annually submits grant proposals to fund projects that promote the goals outlined in the City of Wichita Historic Preservation Plan. The grant proposals fund projects that are not included in the Historic Preservation Office annual City budget.

Grant projects will not be undertaken until programmatic agreements have been executed with the State Historic Preservation Office

There is no actual cash match. City match is provided by documented staff hours, which is recorded as cash match on the application.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the submission of the grant proposals for FY2005 Historic Preservation Fund Grant through the Kansas State Historical Society be authorized and the Mayor be authorized to sign the grant application and grant award documents. Motion carried 7 to 0.

--carried

PLANNING AGENDA

Motion --
-- carried

Mayans moved that the Planning Agenda Items, except Items 35, 36, 37, and 38, be approved. Motion carried 7 to 0. Mayor stated there would be no public input regarding Items 35, 36, 37 and 38.

ZON2004-00049

ZON2004-00049-ZONE CHANGE FROM GENERAL OFFICE TO LIMITED COMMERCIAL. GENERALLY LOCATED SOUTHWEST OF SENECA AND PATTERSON. (DISTRICT IV)

Agenda Report No. 04-1118

MAPC Recommendations: Approve, with access off of Seneca and Patterson. Vote (10-0)

DAB IV Recommendations: Approve, with access off of Seneca and Patterson. Vote (9-1)

MAPD Staff Recommendations: Approve, subject to dedication of complete access control along Seneca.

The applicant requests LC Limited Commercial zoning on a .736-acre vacant lot, currently zoned GO General Office, for a vehicle upholstery business to be housed in a new building. The application area is west of South Seneca and south of Patterson (3333 South Seneca). North of the application area, across Patterson is two LC zoned auto-based uses, a GO zoned single-family residence, and an LC zoned shopping center. South and west of the application area are SF-5 zoned single-family residences. East of the application area, across Seneca, are SF-5 zoned single-family residences; and an SF-5 zoned, legal non-conforming auto repair business.

DAB IV heard this request on October 6, 2004, and recommended approval without the staff recommended access control dedication along Seneca (9-1). No one spoke against the request at the DAB hearing, the applicants and their agent argued against the staff recommended dedication. MAPC

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heard this request on October 7, 2004, and recommended approval (11-0) without the staff recommended access control dedication; no one spoke against the request at the MAPC hearing. Staff has received no protest petitions on this case.

Motion--
-- carried

Mayans moved that the Council concur with the findings of the MAPC and place the Ordinance approving the zone change on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. ZON 2004-49

CON2004-34

CON2004-34-CONDITIONAL USE FOR ANCILLARY PARKING ON PROPERTY ZONED MULTI-FAMILY RESIDENTIAL. GENERALLY LOCATED SOUTH OF CENTRAL AND WEST OF WACO. (DISTRICT VI)

Agenda Report No. 04-1119

MAPC Recommendations: Approve, subject to conditions. Vote (9-0-2)

DAB Recommendations: Approve, subject to conditions. Vote (9-0).

MAPD Staff Recommendations: Approve, subject to conditions.

The applicant requests a Conditional Use to allow ancillary parking on 0.4 platted acres zoned "B" Multi-Family. The subject property is located south of Central and west of Waco. The ancillary parking is needed for an adjoining proposed office building to be located east of the proposed ancillary parking area (see attached site plan). The subject property is currently developed with a parking lot that was constructed at a time when parking was permitted by right in the "B" district. Since the parking lot will be reconstructed, it must conform to current zoning regulations, which require approval of a Conditional Use. Ancillary parking areas are subject to the Supplementary Use Regulations contained in Section III-D.6.p. (see attached).

The site plan does not show any screening or landscaping along the west and south property lines where the proposed parking lot would abut residentially-zoned property; however, Section III-D.6.p.(6) of the Unified Zoning Code requires screening and landscaping in these locations. Supplementary Use Regulations such as Section III-D.6.p. can be waived by the City Council upon receiving a favorable recommendation from the MAPC. The MAPC recommends waiving the requirements of Section III-D.6.p.

The surrounding area is characterized primarily by institutional and multi-family uses. The property to the east is zoned "GC" General Commercial, is currently developed with a parking lot, and is the proposed location of the office building to be supported by the requested ancillary parking lot. The property to the south is zoned "GC" General Commercial and is developed with a day care. The property to the west is zoned "B" Multi-Family and is undeveloped. The property to the north is zoned "B" Multi-Family is developed with apartments.

There were no speakers in opposition to the request at the DAB VI meeting on October 4, 2004, or the MAPC meeting on October 7, 2004. DAB VI and MAPC both voted unanimously to recommend approval of the Conditional Use subject to following conditions:

1. The ancillary parking area shall be developed in general conformance with the approved site plan.
2. The ancillary parking area shall be developed in conformance with the requirements of Section III-D.6.p. of the Unified Zoning Code, except that the requirements of Section III-D.6.p.(6) are hereby waived.

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3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Motion--

Mayans moved that the Council adopt the findings of the MAPC and approve the Conditional Use subject to the recommended conditions; and authorize the Mayor to sign the Resolution. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 04-612

A Resolution authorizing a Conditional Use for Ancillary Parking on 0.4 acres zoned "B" Multi-Family Residential, located south of Central and west of Waco, I the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

TRIPLE CROWN CT

PUD2004-03-AMENDMENT #1 TO PUD #12 EQUESTRIAN ESTATES TO PERMIT A NEIGHBORHOOD SWIMMING POOL. GENERALLY LOCATED ONE-FOURTH MILE SOUTH OF HARRY ON THE SOUTHWEST CORNER OF TRIPLE CROWN COURT AND TRIPLE CROWN STREET, 1777 S. TRIPLE CROWN ST. (DISTRICT II)

Agenda Report No. 04-1120

MAPC Recommendations: Approve, subject to conditions. Vote (10-0-1)

DAB Recommendations: Not applicable.

MAPD Staff Recommendations: Approve, subject to conditions.

The applicant is requesting to amend PUD #12 Equestrian Estates to permit a neighborhood swimming pool on a 0.37-acre lot zoned "PUD" Planned Unit Development. The property is located on the southwest corner of Triple Crown Court and Triple Crown Street, approximately one-fourth mile south of Harry and east of 127th Street East.

The proposed site is located within Parcel 1 of the PUD. Swimming pools are specifically mentioned as being permitted within the "Reserve" areas, but not on individual lots. The lots in Parcel 1 currently are limited to single-family residential use. This amendment would permit the swimming pool to be located upon Lot 14, Block 1, Equestrian Estates Addition.

A number of single-family residences are under construction or have been recently completed in the vicinity of the site. The neighborhood also has ponds and open space recreational areas between clusters of homes. Parcel 3, zoned PUD, is located two blocks to the west and is developed with a large horse stable, an outdoor riding arena and an large exercise area and riding trails.

The site plan shows a 20-foot by 40-foot swimming pool, five parking spaces (including an ADA designated space), and a clubhouse located west of the pool. Normal parking requirements would be 19 spaces, including one ADA accessible space, based on the size of the pool and clubhouse. Since the clubhouse is large enough to allow gatherings that could include guests arriving in cars, it is recommended that the site plan be revised to increase the parking area to 12 spaces.

Section IV-B.3 of the UZC requires screening in the form of decorative fencing, evergreen vegetation, or landscaped earth berms along the west and south property lines. The Landscape Ordinance requires a landscaped street yard and parking lot screening along the local streets, and a landscape buffer along the west and south property lines.

At the MAPC meeting held October 7, 2004, no citizens were present to speak and no protest petitions have been received. MAPC voted (10-0-1) to approve subject to staff recommendation, as follows:

1. The site shall be developed in general conformance with the approved site plan.

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2. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance, with the additional requirement of solid evergreen plantings between the pool and deck and the residential property lines to the south and west, per a landscape plan approved prior to the issuance of a building permit.
3. A 15-foot building setback shall be provided on the south and west property lines.
4. Parking shall be no nearer than eight feet from the street on the north and east property lines. A landscaped planting bed with parking lot screening shall be provided to screen the parking lot.
5. A minimum of 12 parking spaces, including one ADA accessible space, shall be provided.
6. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the PUD. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Motion--
-- carried

Mayans moved that the Council concur with the findings of the MAPC; approve Amendment #1 to PUD #12; and that the Ordinance amending PUD #12 be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over.

ZON2004-48

**ZON2004-48-ZONE CHANGE FROM SINGLE-FAMILY TO LIMITED COMMERCIAL.
GENERALLY LOCATED NORTH OF KELLOGG AND EAST OF MAIZE ROAD.
(DISTRICT V)**

Agenda Report No. 04-1121

MAPC Recommendations: Approve, subject to platting within one year. Vote (9-0)

DAB Recommendations: Not applicable.

MAPD Staff Recommendations: Approve, subject to platting within one year.

The applicant requests a zone change for the subject property from "SF-5" Single Family to "LC" Limited Commercial. The subject property is a 2.1 acre unplatted tract that is located north of Kellogg and east of Maize Road. The subject property is currently developed with a residential structure that is proposed to be razed with the site redeveloped. The proposed use of the subject property is to construct a Value Place extended-stay hotel. Access to the subject property is proposed to Maize Road and/or to Kellogg via an access easement across property to the west and/or south.

The surrounding area is characterized primarily by commercial uses along the Kellogg corridor. Most of the properties along the Kellogg corridor are zoned "LC" Limited Commercial or "GC" General Commercial. There is a significant amount of undeveloped land (both commercially and residentially zoned) along Kellogg that likely will develop in the future with at least some commercial uses with the opening of the limited access Kellogg freeway. Residential properties in the area are located behind the commercial properties that front Kellogg and are primarily zoned "SF-5" Single Family and developed with single-family residences.

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There was one speaker in opposition to the request at the MAPC meeting on October 7, 2004, who cited concerns with the height of the proposed hotel, declining property residential values caused by nearby commercial uses, and drainage. The MAPC voted unanimously to recommend approval of the zone change subject to platting the property within one year.

Motion--

Mayans moved that Council adopt the findings of the MAPC and approve the zone change subject to the condition of platting within one year; and that the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council. Motion carried 7 to 0.

-- carried 7 to 0.

DED2004-23 AND 24

DED2004-23 AND 24-DEDICATION OF UTILITY EASEMENTS FOR PROPERTY LOCATED ON THE SOUTH SIDE OF HARRY AND WEST OF HOOVER ROAD. (DISTRICT IV)

Agenda Report No. 04-1122

MAPC Recommendation: Accept the Dedications.

The Dedications are a requirement of Lot Split Case Nos. SUB 2004-110 and SUB 2004-111 and are being submitted for two-feet of additional utility easements.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications accepted. Motion carried 7 to 0.

DED2004-25/26

DED2004-25 AND DED2004-26-DEDICATIONS OF UTILITY EASEMENTS; DED2004-27 AND DED2004-28-DEDICATIONS OF STREET RIGHT-OF-WAY FOR PROPERTY LOCATED WEST OF SENECA AND NORTH OF 53RD STREET NORTH. (DISTRICT VI)

Agenda Report No. 04-1123

MAPC Recommendation: Accept the Dedications.

As a requirement of Lot Split Case No. SUB 2004-104, these Dedications are being submitted for ten-foot utility easements and 30 feet of street right-of-way along Delaware.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications be accepted. Motion carried 7 to 0.

VAC2004-41

VAC2004-41-REQUEST TO VACATE A PLATTED UTILITY EASEMENT, GENERALLY LOCATED MIDWAY BETWEEN 29TH STREET NORTH AND 37TH STREET NORTH, ON THE EAST SIDE OF RIDGE ROAD, SOUTHEAST OF WESTWIND BAY COURT AND WESTWIND BAY. (DISTRICT V)

Agenda Report No. 04-1124

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicant proposes vacation of the platted 10-foot utility easement located between Lots 4 & 5, Block B, Ridge Port 4th Addition The Ridge Port 4th Addition was recorded Register of Deeds April 17, 2000

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A lot split will reconfigure the "TF-3" Two-family Residential zoned lots. There are no franchised utilities, drainage, water lines or sewer lines in the easement. A substitute utility easement will be provided to staff.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. There was one written protests against the request, but that protest was resolved.

A certified copy of the Vacation Order and a utility easement dedicated by separate instrument will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

(Agenda Item #35)
ZON2004-00050

ZON2004-00050-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO NEIGHBORHOOD OFFICE. GENERALLY LOCATED WEST OF AMIDON AND 34TH STREET NORTH. (DISTRICT VI)

John Schlegel

Director of Planning reviewed the Item.

Agenda Report No. 04-1125

MAPC Recommendations: Approve (6-4) subject to platting within one-year and Protective Overlay #148.

MAPD Staff Recommendations: Approve subject to platting within one-year and Protective Overlay #148.

DAB VI Recommendations: Approve (7-2) subject to platting within one-year and Protective Overlay #148.

The applicant requests a zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office on property located one lot north of the junction of Womer and North Amidon, which subsequently becomes 34th Street North when the street turns to the northeast. The applicant has indicated the desire to convert an existing residence to general office use for a small CPA office. The office would operate on the scale of a typical home occupation as allowed in residential zoning districts of greater intensity than "SF-5" except that nobody would be living in the residence.

According to the information submitted by the applicant, the applicant intends to remodel the interior of the structure, and to add parking/drive aisles as necessary to meet Unified Zoning Code requirements. The parking lot would be located on the lot and landscaped to screen it from view of the residences across Amidon.

The property is located north of a medical office building zoned "GO" General Office. The property to the southwest across Womer is zoned "LC" Limited Commercial and is vacant except for a cell tower on the west edge of the tract. The property to the east and northeast is zoned "SF-5" Single-family Residential and developed with single-family residences. The Wichita-Valley Center Flood Control Project (the Big Ditch) lies to the north/northwest.

At the District VI Advisory Board meeting held October 4, 2004, the board recommended approval (7-2) subject to recommended conditions of the protective overlay. The resident living directly across from the property was present to oppose the request due to access to the subject property on Amidon, an unpaved road.

At the MAPC meeting held October 7, 2004, MAPC voted (6-4) to recommend approval subject to staff recommended conditions of the protective overlay. Neighbors were present to request denial and submitted a letter of opposition. No formal protest was filed. Discussions centered on access on

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Amidon and its potential effect on single-family residential across the street to the east. The owner of the abutting office was approached to allow cross-lot circulation through the adjacent parking lot directly to Womer, but has not granted it. The recommendation of MAPC was to require the cross-lot access agreement from the applicant for the possible cross-lot connection in the future.

The MAPC recommendation was to approve the zone change to "NO" Neighborhood Office subject to a Protective Overlay #148 with the following provisions:

1. The office use shall be conducted within the premises of the current structure but shall have those improvements such as but not limited to parking and drive aisles and landscaping to comply with the Unified Zoning Code site development regulations. Additionally, the parking lot shall be located and landscaped to screen it from view of the residential zoning east of Amidon.
2. No more than eight individuals (including related family members) shall be allowed to work from the premises at any one time.
3. No direct access shall be allowed onto Womer.
4. The property owner shall grant a cross-lot easement in favor of the property to the south and seek to obtain an easement from the property to the south to serve as the main point of access to the subject property.
5. The property owner shall execute an agreement with the City not to protest paving of Amidon.
6. The property owner shall execute a guarantee for extension of sewer to the property.
7. Light poles, including base and fixtures, shall not exceed 14 feet in height and shall be shielded to prevent spillage to the northeast and east.
8. No signage on Amidon shall be permitted larger than two square feet; provided that it shall not be illuminated and shall be mounted flat against the façade of the building. Ground signage on Womer shall be limited to 10 feet in height.

Motion --

Fearey moved that Council adopt the findings of the MAPC and approve the zone change, subject to the protective overlay conditions; and the Ordinance establishing the zone change be placed on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2004-50

(Agenda Item #36)

CUP2004-34

CUP2004-34 – AMEND DP106 NORTHWEST VILLAGE COMMUNITY UNIT PLAN TO ALLOW FOR EMERGENCY MEDICAL AND DIAGNOSTIC SERVICES, AND EDUCATIONAL SERVICES. GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF NORTH TYLER ROAD AND WEST 13TH STREET NORTH. (DISTRICT V)

John Schlegel

Director of Planning reviewed the Item.

Agenda Report No. 04-1126

MAPC Recommendations: Approve, subject to conditions. Vote (7-4)

DAB Recommendations: Approve, subject to conditions. Vote (6-1).

MAPD Staff Recommendations: Approve, subject to conditions.

The Northwest Village Community Unit Plan (CUP) is located at the northeast corner of Tyler Road and 13th Street North, and is divided into five development parcels, with each parcel containing specific development standards. The application area is located in Parcel 4, and has a base zoning of LC, Limited Commercial, subject to the CUP development restrictions. Super Market Developers own the western 6.8 acres of the 16.75-acre Parcel 4, and are seeking an amendment to allow "emergency medical and diagnostic services, and education services" to occur on the applicants' portion of Parcel 4.

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If the request is approved, Tegra Healthcare Properties intends to purchase the site and lease some or all-of-the site to Wesley Health Care who intends to provide medical services, including emergency medical services (EMS).

The applicants' portion of Parcel 4 is developed with a commercial building containing approximately 66,000 square feet that was, until two to three years ago, a grocery store. The building is now vacant and has been since the grocery store closed.

This facility would provide emergency services for minor injuries up to and including low-level trauma events. 10,000 square feet of the building's 66,000 square feet would be committed to the EMS service. The EMS facility would be open seven days a week, 24-hours a day. Wesley estimates there would be an average of one to two emergency runs a day. Another 5,000 feet would be dedicated to diagnostic services, including laboratory work, and diagnostic imaging capabilities such as CT, x-ray, mammography and ultrasound. The remaining 51,000 square feet would be used for medical offices; educational services and other permitted uses (see Tegra Healthcare letter of August 3, 2004, attached.) The entrance to the EMS room would be from the west side of the building. The applicant anticipates 190 to 290 weekly patient visits for all medial uses.

Access to the site is via both Tyler and 13th streets.

The eastern portion of Parcel 4 is owned by another entity, Northwest Centre, L.L.C., and is developed with 79,550 square feet of retail and office uses. The other four parcels within the CUP are developed with a bank, additional retail, office and service uses and residences.

Currently, Parcel 4 permits: shopping center; tire battery and accessory; financial, office, personal service convenience and service oriented retail uses.

Land to the north is part of the CUP and developed with residences; to the south is Northwest High School; and to the west are commercial and residential uses.

A masonry wall exists along the northern boundary of Parcel 4 that separates the commercial uses from the residential uses, located to the north. There is also a mature hedgerow of trees located north of the wall. City Fire Station 16 is located approximately 932 feet north of the application area (16th Street and Tyler), and responds to an average of 139 emergency calls a month with siren and lights.

The applicants held a neighborhood meeting with area residents on August 26, 2004.

On October 4, 2004, this request was reviewed by District Advisory Board (DAB) V. Several members of the public spoke for and against the request. Those in support of the request noted the lack of any other emergency services on the west side of town and noted that the vacant building was undesirable as it attracted graffiti and the grounds would be better kept if the building were occupied. Those in opposition noted that the proposed use would increase the noise level experienced by the neighborhood, the entrance to the facility was too close to nearby residences, the buffer wall located between the neighbors and the proposed use needed to be higher and there was already enough emergency traffic in the area due to the fire station (located approximately ¼ mile north of the application area). Occidental Management, which provides management services for the commercial and office uses located east of the application area, expressed opposition due to: concerns that they could lose tenants due to escape clauses in their leases that allow them to void their lease agreements if the application area is not used for uses compatible with office and retail uses; that the proposed use is out of character with existing office and retail uses located in the center and that emergency room clients may represent security concerns. It was also Occidental's opinion that the building could be put to a retail or office use if the applicant chose to build their emergency service center on nearby property that the applicant already owns, and the building is vacant primarily because the applicant has held a sales offer for several months which inhibited the marketing of the site. (See attached materials submitted by Occidental Management.) District Advisory Board V recommended approval 7-1-1, asking the applicant to look at increasing the height of the screening wall separating the application area from the neighborhood to the north.

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The Metropolitan Area Planning Commission (MAPC) reviewed this request on October 7, 2004. The action of the Commission was to recommend approval 7-4 after hearing comments from the public that mirrored those presented at the district advisory board and contained in the attachments to this agenda item. The action of the MAPC was to permit “emergency medical and diagnostic services, and education services” to occur on the applicants’ portion of Parcel 4.

Property owners representing 59 percent of the land area located within the notice area submitted letters of opposition. (These letters of opposition do not trigger a super majority-voting requirement as they would if a zone change request were involved, but are reported to depict the level of support or opposition for a CUP amendment.)

On amendments to community unit plans not accompanied by a zoning request, the action of the MAPC is final unless there is an appeal by an aggrieved party. Occidental Management co-owns the parcel (with the applicant) that includes the application area, and they have, along with others, appealed the action of the MAPC. Since Occidental Management was not a co-applicant on this amendment, that situation triggers a super majority vote requirement for the Council to approve the request. For any approval that amends only a portion of a parcel, as is the case in this instance, it requires an affirmative vote of at least three-fourths of all the members of the Governing Body.

Motion --
-- carried

Martz moved that Council concur with the findings of the MAPC to allow “emergency medical and diagnostic services, and education services” to occur on the applicants’ portion of Parcel 4 of DP-106; and that the Ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. CUP2004-00034

(Agenda Item #37)
CUP2004-31

CUP2004-31-AMEND DP18 #2-AMENDMENT TO THE RIVER BEND SHOPPING CENTER COMMUNITY UNIT PLAN. GENERALLY LOCATED NORTH OF 21ST STREET NORTH AND WEST OF HOOD. (DISTRICT VI)

John Schlegel

Director of Planning reviewed the Item.

Agenda Report No. 04-1127

MAPC Recommendations: Denied. Vote (11-0)
DAB Recommendations: Denied. Vote (7-1-1)
MAPD Staff Recommendations: Denied.

The applicant is seeking approval to allow an existing business located at 1514 west 21st Street that currently holds cabaret and drinking establishment-restaurant (DE-R) licenses to also obtain a dance hall permit. Based upon an interpretation provided by the Superintendent of Central Inspection, businesses holding all three licenses – drinking establishment-restaurant, cabaret and dance hall - are to be treated per the Unified Zoning Code as a “night club in the city.” The applicant indicates he would like to hold dances a two times a month at this location. Given the Superintendent’s interpretation the applicant could not legally allow dancing by the public without this amendment.

The crux of this application is that if the request were to be approved, then the limitation that is currently in place on the amount of alcohol that can be sold on this site by virtue of its current DE-R license would be removed. Without the DE-R license restriction, there are not any restrictions on the volume of alcohol that could be sold. Establishments that dispense alcohol, provide live entertainment and offer public dancing can be good neighbors to other businesses, but they can also become nuisances that generate excessive noise, enable less than desirable public behavior – assault, property destruction, weapons violations and disturbing the peace. Such behaviors can quickly detrimentally impact adjoining properties, especially when residential uses are nearby.

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The existing business is part of an existing retail strip center that is a platted lot located northwest of the intersection of Hood Avenue and 21st Street, and is located on Parcel 1 of the River Bend Shopping Center Community Unit Plan (C.U.P.), DP-18. The applicant's property is zoned LC Limited Commercial, subject to the conditions contained in DP-18, including the development standards for Parcel 1. Uses permitted in Parcel One are restricted to: Shopping center, department store, restaurant, offices and other similar uses permitted in "LC" zoning. The applicant is seeking to amend the list of permitted uses in Parcel 1 to include "night club in the city" as a permitted use. Existing businesses located in the CUP include: Mazatlan bar (DE-R plus dance hall that closed or let its licenses expire on 8-10-04); clothing store; grocery store, bus service, café, vehicle repair and the El Zarape Bar and Grill (DE-R).

Parcel 4 of DP-18, located north of Parcel 1 (north of 22nd Street, between Garland Avenue and Hood), was, in 1969, granted a Board of Zoning Appeals exception (BZA 18-69) to permit off-street parking on this lot that is zoned SF-5 Single-family Residential. The only use permitted by DP-18 on Parcel 4 is "parking for Parcel 1." If this request is approved, club patrons could park on Parcel 4, in addition to the parking located on Parcel 1.

Single-family Residential zoning and uses are located north, east and west of Parcel 4. SF-5 Single-family Residential, B Multi-family Residential, LC Limited Commercial and GO General Office zoning surround Parcel 1, the site of the proposed club. Surrounding uses include: medical offices, church, apartments, office, single-family residential and retail services.

A "night club in the city" is defined by the Unified Zoning Code as an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered to the public or its members, and which may or may not serve food. "Night club in the city" is a use permitted by right in the "LC" district except when it is located within 200 feet of a church, place of worship, public park, school or residential zoning district. A Conditional Use (or an amendment to a Community Unit Plan) is required if a night club is located within 200 feet of the aforementioned uses or zoning districts.

In this situation, three circumstances trigger the need for the amendment. The first situation is the proposed site is located within a C.U.P. whose list of permitted uses does not include "night club," and those uses listed are deemed to be less intense than a "night club in the city," so an amendment to DP-18 is required. The second circumstance is the space within the strip center housing the proposed club and the parking that supports the club is located within 200 feet of residential zoning. The space proposed to house the club within the retail center is located within 100 feet of residential zoning. The parking for the club located on Parcel 1 is located within 100 feet of residential zoning, while the parking permitted on Parcel 4 for uses located in Parcel 1, including the club, is adjacent to single-family zoning. A third trigger is that the Office of Central Inspection has determined that any business holding a liquor and or cereal malt beverage service, offering live entertainment (cabaret license per Chapter 3.08.030) and a dance or dance hall license (per Chapter 3.28) requires that the use be automatically classified as a "night club in the city."

District Advisory Board (DAB) VI reviewed this request on October 4, 2004. Four individuals spoke in opposition citing concerns with undesirable activities (public drunkenness, noise late at night/early morning, excessive traffic and club patrons blocking residential driveways, public urination and gunshots) that have occurred at this location with a previous tenant operating a similar facility. They noted that they had to call the police on numerous occasions to report these and other illegal activities. Since the previous club at this location has closed, it was their contention that approval of this request would allow these types of behaviors to begin again. They also contended that this location is too close to residences, and this use is not in character with the neighborhood commercial centers in which it is located, nor the nearby residences located north, east and west of the neighborhood center. The DAB voted 7-1-1 to recommend denial of the request.

The Metropolitan Area Planning Commission (MAPC) reviewed this request on October 7, 2004. Seven individuals spoke in opposition citing similar concerns to those expressed at the DAB meeting. The MAPC voted 11-0 to deny the request to amend the list of permitted uses within DP-18 to include "night club in the city" based upon the findings found in staff's report.

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Approximately 45 individuals have signed a petition objecting to the request. Neighboring property owners located within 200 feet of the application area have submitted letters of objection equaling 18.19 percent of the land area located within 200 feet of the application.

Unless the CUP amendment is accompanied by a change in zoning request, the action of the MAPC is final unless there is an appeal by an aggrieved party. In this instance, the applicant has appealed the planning commission's denial.

Motion --
-- carried

Fearey Moved to concur with the findings of the MAPC and deny the request to amend Community Unit Plan DP-18 to allow a "night club in the City." Motion carried 7 to 0.

(Agenda Item #38)
DR2004-0004

DR2004-0004-ADOPTION OF PROPOSED REZONING FOR CERTAIN PROPERTIES IN THE MCADAMS NEIGHBORHOOD. GENERALLY LOCATED EAST OF WASHINGTON STREET, WEST OF HYDRAULIC STREET, NORTH OF MURDOCK/8TH STREET AND SOUTH OF 17TH STREET NORTH. (DISTRICT I)

John Schlegel

Director of Planning reviewed the Item.

Agenda Report No. 04-1128

MAPC Recommendation:	Approve, reflecting all property owner "opt-out" requests received as of 5:00 p.m., October 7, 2004. (11-0)
MAPD Recommendation:	Approve, reflecting all property owner "opt-out" requests received as of 5:00 p.m., October 7, 2004.
D.A.B. I Recommendation:	D.A.B. I recommended unanimous approval.

In June 2003, following two years of development and neighborhood input, the Wichita City Council adopted the McAdams Neighborhood Revitalization Plan to serve as a blueprint for the revitalization of this unique neighborhood. The current zoning pattern for the McAdams neighborhood dates back over 50 years, and reflects a different vision for most of the neighborhood than has been identified in the recently adopted McAdams Neighborhood Revitalization Plan. One of the priority action items identified in the Plan is the creation of a zoning approach that better reflects existing land use and future redevelopment opportunities.

The vision of the McAdams Neighborhood Revitalization Plan is to revitalize and re-populate the McAdams neighborhood by encouraging new predominately single-family housing on vacant lots in the neighborhood. However, virtually all of the residential areas are zoned "B" Multi-Family District, which allows and encourages high-rise apartments and project housing, rather than single-family homes. This zoning also allows perceived undesirable uses such as commercial group homes and correctional placement homes. The "GC" General Commercial District zoning along 9th and 11th Streets also allows uses such as recycling processing centers, boarding kennels, welding shops and night clubs which are deemed by the neighborhood association to be undesirable adjacent to surrounding residential uses. Property owners are reluctant to re-invest in their properties due to inappropriate uses that are allowed under the current zoning.

The McAdams Neighborhood Rezoning Committee, consisting of neighborhood and city representatives, was formed earlier this year to help recommend a new zoning scheme for a portion of the McAdams neighborhood defined as follows: 17th Street on the north, Hydraulic on the east, Murdock / 8th Street on the south, and Washington on the west. The following principles were adopted to guide this process:

1. No property will be rezoned against the wishes of the property owner. No changes will be proposed that will prevent residents, businesses or landlords from continuing their existing operations or uses.

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2. No property will be rezoned to a higher intensity zoning classification. This is necessary in order to streamline the neighborhood rezoning initiative, while at the same time independently preserving full notification requirements normally associated with any property rezoning proposal for higher intensity uses.
3. Neighborhood-wide rezoning will be proposed that accommodates the wishes of property owners while facilitating future anticipated /desired land uses as envisioned in the McAdams Neighborhood Revitalization Plan. There will be no rezoning fees charged to property owners affected by this rezoning initiative.
4. Neighborhood-wide rezoning will be proposed that reflects the support and endorsement of the McAdams Neighborhood Association and the 21st Century Coalition for Neighborhood Revitalization.

Work began on the McAdams neighborhood-wide rezoning initiative in April 2004. An inventory and analysis of existing land uses and zoning was completed in May 2004. The Rezoning Committee subsequently completed a preliminary rezoning scheme that was presented at two neighborhood public meetings held on June 24th and June 26th at the McAdams Recreation Center. Letters were sent to all affected property owners advising of the rezoning initiative and inviting them to attend the neighborhood meetings. Copies of the existing zoning and proposed rezoning were also made available at two business establishments located within the McAdams neighborhood. Based upon public comment received at those meetings, the McAdams Rezoning Committee prepared a revised final proposed rezoning scheme dated July 19, 2004.

On August 2, 2004, the final proposed rezoning scheme was presented to members of the District I Advisory Board, who unanimously approved the proposal. On August 5th, the proposed rezoning scheme received the endorsement of the Advanced Plans Committee.

On August 19, 2004, the Metropolitan Area Planning Commission set a public hearing date of October 7, 2004, to receive comments on the proposed rezoning scheme. Letters accompanied by detailed map sets that outline the nature of the proposed rezoning change were sent to all property owners advising of the public hearing date, and advising of the opportunity to have their property remain as current zoned.

Copies of the existing and proposed zoning maps were posted on the City's web page. A full page, colored map legal notice was also placed in the Wichita Eagle on September 16, 2004 showing the existing zoning and proposed zoning maps for the McAdams neighborhood.

On October 7, 2004, the Metropolitan Area Planning Commission held a hearing to consider the area-wide rezoning initiative proposed for the McAdams neighborhood. No members of the public chose to speak against this item.

MAPC voted to approve the McAdams rezoning proposal (11-0) subject to the requirement that it reflect all property owner "opt-out" requests received as of 5:00 p.m., October 7, 2004. A total of five property owners have requested to "opt-out" of the proposed rezoning initiative.

An Ordinance has been prepared that adopts the rezoning of certain properties located in the McAdams neighborhood by reference to the legal listing of properties contained in the document entitled "McAdams Neighborhood Rezoning as recommended by the Metropolitan Area Planning Commission on October 7, 2003.

There are no financial implications for the City associated with the adoption of this Ordinance.

The Metropolitan Area Planning Commission, in accordance with Kansas state statutes, held a public hearing for the proposed McAdams rezoning on October 7, 2004, with the required notice of public hearing published in the official City newspaper. The proposed McAdams neighborhood rezoning initiative has been reviewed for legal consistency and appropriateness by the City's Legal Department. The adopting Ordinance has also been reviewed and approved as to form.

Motion --

Brewer moved that Council concur with the findings of the MAPC and that the Ordinance approving the McAdams

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-- carried

neighborhood Rezoning proposal, be placed on first reading. Motion carried 7 to 0.

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AIRPORT AGENDA

Motion --
Carried

Mayans moved that the all Airport Agenda Items be approved with the recommended actions. Motion carried 7 to 0.

MEDIA BUY

AIRPORT NEW SERVICE ANNOUNCEMENT MEDIA BUY.

Agenda Report No. 04-1129

It is the policy of the Wichita Airport Authority to fund marketing programs aimed at stimulating the use of Wichita Mid-Continent Airport. Such programs may be directed from time to time on a temporary basis toward the use of air carriers who introduce and sustain new service. Mid-Continent Airport has been experiencing new and expanded airline service with the arrival of recent carriers. The Airport Authority has determined that it is in the best public interest to promote these services to educate travelers. It is critical to Airport success that those in the catchment area be aware of these services and utilize them. Prior marketing efforts have contributed to the growth of passengers at Mid-Continent.

With Council approval in November 2003, the Airport hired Sullivan Higdon Sink as the agency of record for one year. The contract is up for review on November 30, 2004.

A week ago, Northwest Airlines announced new direct service from Mid-Continent Airport to Detroit International Airport. New service begins January 12. This provides Wichita with tremendous opportunities for international travel, as Detroit has become Northwest's hub airport for service. Mid-Continent Airport would like to use \$25,000 to alert the traveling public of this new service. In service promotion, a media buy should be negotiated as soon as possible so that it is ready to begin in early December. By working with the marketing team at Northwest plus the City of Wichita marketing team, Sullivan Higdon Sink will strategize and negotiate the media buy with Kansas media.

Sullivan Higdon Sink will work with City staff to place a media buy that fits appropriately with current on-going marketing efforts already made. The budget will not exceed \$25,000. The allocation is available in the Airport budget with an adjustment.

Motion--
--carried

Mayans moved that the utilizing the services of Sullivan Higdon Sink be continued. Motion carried 7 to 0.

LIMO. SERVICE

AGREEMENT-GOD'S SPEED FLIGHTS, INC. AND LIMOUSINE SERVICE.

Agenda Report No. 04-1130

The WAA has received a request from God's Speed Flights and Limousine Service to provide limousine and shuttle service to and from Wichita Mid-Continent Airport.

The limousine/shuttle service would be an enhancement to the existing ground transportation services provided to the users of Mid-Continent Airport.

While the revenue to the WAA for the provision of this service is not significant (\$50 per month), it does provide additional alternatives for travelers using Wichita Mid-Continent Airport.

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Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

SA NO. 3

SUPPLEMENTAL AGREEMENT NO. 3-PROFESSIONAL INSURANCE MANAGEMENT 2120 AIRPORT ROAD, WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 04-1131

Professional Insurance Management (PIM) leases the majority of an office facility located at 2120 Airport Road. The company is interested in exercising a three-year renewal option included in their current agreement.

The Martens Companies conducted an appraisal of this facility and recommended a rental rate of \$9.00 per sq.ft. PIM leases 1,653 sq.ft. on the first floor, and the entire second floor which consists of 4,213 sq.ft. Utility, janitorial, and minor maintenance expenses are the responsibility of the tenant.

Annual revenue to the Airport Authority is \$52,790 per year.

This Supplemental Agreement has been approved as to form by the Department of Law.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

HOUSING AGENDA

Motion --
-- carried

Mayans moved that all Housing Agenda Items be approved with recommended action. Motion carried 8 to 0. Inafay Grays-McClellan, Housing Member is also seated with the City Council on Housing Agenda.

CHOICE VOUCHERS 2004-2005 PAYMENT STANDARDS-SECTION 8 HOUSING CHOICE VOUCHERS.

Agenda Report No. 04-1132

Payment standards represent the amount of rent paid to owners, plus tenant paid utilities, and are established by Housing Authorities based on current Fair Market Rents. The Department of Housing and Urban Development published a notice of Fair Market Rents (FMRs), effective October 1, 2004. These FMRs are calculated to be at the 50th percentile of rents in the Wichita area, and include an allowance for utilities.

The Quality Housing and Work Responsibility Act (QHWRA) of 1998 requires that Housing Authorities operating Section 8 Housing Choice Voucher Programs, establish Section 8 Voucher Payment Standards between 90% and 110% of the Published Fair Market Rent for each bedroom size. The payment standards are used to calculate the amount of the monthly subsidy paid to landlords.

The QHWRA also includes a provision that a family, which initially receives Section 8 tenant-base assistance, may not be required to pay more than 40% of its adjusted monthly income for rent and utilities. In the Wichita area, as in many other parts of the country, rents have increased more rapidly than the rate of inflation. Therefore, many rental units are unavailable to new Section 8 tenants when maximum voucher payments are calculated at 100% of the FMR. In addition, the lower payment standard has the effect of restricting Section 8 tenants to lower income areas where rents are lower.

In 2003, the Wichita Housing Authority Board authorized a payment standard at 110% of FMR for 0-4 bedroom units and 100% of FMR of 5-6 bedrooms.

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In order to determine appropriate rent rates for the WHA based on the latest published Fair Market Rent schedule, staff reviewed requests for tenancy and actual rents for the months of January through October 2004. As a result of the staff review, Housing Services recommends that the current payment standards for 1-4 bedroom sizes continue to be calculated at 110% of the 2003 FMR. The Department further recommends that payment standards for 0 (studio) and 5-6 bedroom units be calculated at 100% of 2004 FMR.

Following is a table of the October, 2004 FMRs, the current payment standards and the recommended increased payment standards:

	BEDROOM SIZE						
	0	1	2	3	4	5	6
FMR (10/1/2004)	429	481	624	806	908	1044	1180
Current Pymt. Standard	410	492	658	892	963	1007	1138
Recommended Standard	429	492	658	892	963	1044	1180

The result of increasing the payment standards is an increase in the amount of assistance per tenant, which results in fewer households served. However, the WHA recommends these standards in order to meet its goal of 100% utilization of all vouchers funded by HUD. The higher rent standards better ensure maximum lease activity based on the market conditions in Wichita, and better ensure de-concentration.

Motion--

Mayans moved that the revised Payment Standards for the Section 8 Voucher Program to be effective for December 1, 2004 for new clients and current clients who are relocating, and as of February 1, 2005 for current clients at the time of their annual re-certification be approved. Motion carried 8 to 0.

--carried

SECTION 8

2004-2005 UTILITY ALLOWANCES-SECTION 8 PROGRAMS.

Agenda Report No. 04-1133

The Quality Housing and Work Responsibilities Act of 1998 requires Housing Authorities to conduct an annual review of utility allowances provided for tenant furnished utilities. When an increase or decrease of 10% or more is noted in utility rates, the allowance must be revised. The Wichita Housing Authority (WHA) Board must review and approve the utility allowances prior to implementation by the Housing Services Department.

Utility allowances are based on actual rates and average consumption estimates and are calculated taking into account structure type and number of bedrooms. Utility allowances are not direct compensation to the tenant for their utility consumption; they are subtracted from the tenant's Adjusted Gross Rent to provide the net amount payable to landlords as rent.

In October, 2004, Staff conducted a review of rates based on information available from utility suppliers, to determine the appropriate consumption for an energy-conserving household, and homes/apartments of different structure types. This review found that the rate changes do not meet the thresholds necessitating a change in the schedule. Therefore, Housing Services staff recommends no change in the utility allowance schedule. It is recommended that the 2004-05 allowances remain the same as the 2003 allowances.

The following chart is a comparison of a typical three bedroom, single family dwelling unit that utilizes a combination of utilities, appliances and services as follows: a.) heating (gas); b.) air conditioning (electric); c.) cooking (electric); d.) other electrical lighting and refrigerator (electric); e.) water heating (gas); f.) water; g.) sewer; h.) trash collection; i.) range (electric) and j.) refrigerator (electric).

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PROPOSED 2004-05 UTILITY ALLOWANCE	
A. Heating (gas)	\$ 43.00
B. Air Conditioning (electric)	\$ 16.00
C. Cooking (electric)	\$ 9.00
D. Other Electric Lights	\$ 35.00
E. Water Heating (gas)	\$ 17.00
F. Water	\$ 16.00
G. Sewer	\$ 18.00
H. Trash Collection	\$ 16.00
I. Range (rental)	\$ 35.00
J. Refrigerator (rental)	<u>\$ 36.00</u>
TOTAL ALLOWANCES	\$241.00

This HUD required action. Approving the utility allowances for 2004-05 will not affect the Housing Services Department's financial position.

Motion-- Mayans moved that the utility allowances for the 2004-05 fiscal year for the Section 8 Rental Assistance Programs, effective on December 1, 2004 for new clients and current clients who are relocating, and as of February 1, 2005 for current clients at the time of their annual re-certification be approved. Motion carried 8 to 0.

--carried

UTILITY ALLOW. 2005 UTILITY ALLOWANCES-PUBLIC HOUSING PROGRAM.

Agenda Report No. 04-1134

The Quality Housing and Work Responsibilities Act of 1998 requires Housing Authorities to conduct an annual review of utility allowances provided for tenant furnished utilities. The air conditioning in Greenway and McLean Manor is provided by the Wichita Housing Authority (WHA). When an increase or decrease of 10% or more is noted in utility rates, the allowance must be revised. The WHA Board must review and approve the utility allowances prior to implementation by the Housing Services Department.

Utility allowances are based on actual rates and average consumption estimates and are calculated taking into account structure type and number of bedrooms. HUD also provides that housing authorities that choose to install air conditioning shall ensure that the cost of utilities attributable to air-conditioning, when the use is optional, shall be borne by the residents. Utility allowances are not direct compensation to the tenant for their utility consumption; they are subtracted from the tenant's Adjusted Gross Rent to provide the net amount payable to public housing authorities as rent.

Public Housing retained the South Central Kansas Economic Development District, Inc. (SCKEDD) to conduct a utility allowance study using REM/Design software. The analysis considered updated natural gas and electric rates, along with the projected water rate increase, and recommends that the allowances be increased. Following are the recommended utility allowances for Public Housing rental units, effective February 1, 2005:

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Bedroom Size	Utility Allowance
Apartments	
One – Rosa Gragg	\$79.00
One – Bernice Hutcherson	75.00
One (Greenway and McLean Manor)	27.00
Two (Greenway and McLean Manor)	23.00
Houses	
Two	116.00
Three	137.00
Four	144.00
Five	203.00
Six	172.00

This is a HUD required action. Approving the utility allowances for 2005 will affect the Housing Services Department's financial position by decreasing rental income.

Motion--
--carried

Mayans moved that the 2005 utility allowances for the Public Housing Program, effective February 1, 2005 be reviewed and approved. Motion carried 8 to 0.

CITY COUNCIL

APPOINTMENTS

BOARD APPOINTMENTS.

No appointments were made.

ADJOURNMENT

Mayans moved that the Council Meeting be adjourned at 11:23 a.m. Motion carried 7 to 0.

The City Council meeting adjourned at 11:23 a.m.

Patsy Ellis
Deputy City Clerk